

# The Citizen and the State.

AN ARGUMENT

BY

NATHAN MATTHEWS, JR.,

IN DEFENCE OF

PRIVATE SCHOOLS,

Before the Joint Committee on Education of the Massachusetts Legislature. April 25, 1889.

BOSTON

GEO. H. ELLIS, PRINTER, 111 FRANKLIN ST.  
1889.



# The Citizen and the State.

---

AN ARGUMENT

BY

NATHAN MATTHEWS, JR.,  
"

IN DEFENCE OF

PRIVATE SCHOOLS,

Before the Joint Committee on Education of the Massachusetts Legislature,  
April 25, 1889.

---

BOSTON:  
GEO. H. ELLIS, PRINTER, 141 FRANKLIN ST.  
1889.

1. C 50

M 4 M 2

# THE CITIZEN AND THE STATE.

---

“An elective despotism was not the government we fought for.”

—THOMAS JEFFERSON.

*Mr. Chairman and Gentlemen of the Committee :*

I have the honor to appear on behalf of 16 private Protestant schools established in the city of Boston, to remonstrate against the passage of any law that shall subordinate the methods and details of education in such schools to the control of State or town authorities ; or that shall in any manner prohibit the parent from educating his children as he pleases.

Among these remonstrants are Chauncy Hall School and the schools of Mr. G. W. C. Noble and other well known teachers.

We concede, Mr. Chairman, the principle of compulsory education ; that is to say, we admit that the government may, by appropriate penalties, compel the parent or guardian to furnish the children under his care with an elementary education ; and we have no fault to find with the catalogue of studies which the Legislature has prescribed for such instruction, that is, with the “studies required by law,” which are reading, writing, arithmetic, English grammar, geography, United States history, drawing, physiology, and hygiene. But we claim for every citizen the right to determine for himself the methods and details of that instruction which he is bound to furnish to his children ; we object to the doctrine that all education in these or any branches of learning should be uniform, the same for all schools and for all scholars ; and we



deny the right of the Legislature to subject the education of our children to the arbitrary and final dictation of the local school committee.

We are no enemies of the public schools ; on the contrary, we are as deeply interested in their success, and as willing to contribute our proportion of the taxes that support them, as any section of the people. While declining to accept each and every public school in the Commonwealth as the best possible and best conceivable, or to sink our intelligence in the singular delusion that our common school system, as it exists to-day, is perfect and beyond improvement ; and while emphatically refusing to bow down before the annual school committee as the sole repository of the educational wisdom of the people, we yet resent with indignation the suggestion that has been made by some of the witnesses for the petitioners, that parents and teachers interested in private schools, and generally everybody who objects to the petitioners' demands, are hostile to the maintenance of free public schools. Nothing could be further from the truth ; there are no people more earnestly and honestly devoted to the cause of free elementary education than those who have dedicated their lives to the instruction of the young, though it be in private institutions ; and I have never yet seen the parent who was unwilling to pay his share of the cost of our public schools, though he sent his own children elsewhere.

Is it not fair, however, to suppose that if our public school system is to be diverted from its original and present purpose ; if from an organization maintained for the sake of furnishing an education to those children whose parents, from motives of economy, or for any other reason, prefer to send them there, our public school system is to be converted into a machine of the type advocated by the French Socialists ; if from an instrument of light it is to be made an engine of oppression ; — then that hearty support which our public schools have ever received from all sections of the people will rapidly fall away ? The true friends of the public schools, Mr. Chairman, are not necessarily those persons who go up and down the land denouncing one third of their fellow citizens as the disloyal subjects of a foreign power, and then come up to the Legisla-

ture to advocate a socialistic cure for evils that have no existence outside their own imaginations.

Let us see, gentlemen, what the private schools of Massachusetts are, and what they have done for the cause of education. In the first place, it is a great mistake to assume that they are principally Catholic or so-called "parochial" schools; they are, on the contrary, both in numbers and number of pupils, mainly Protestant. The statistics of the State Board of Education are very meagre; but the statement of Colonel Higginson, that in Cambridge there are thirty or forty private schools, only two or three of which are "parochial," gives a fair idea of the actual situation.

Another mistake that these self-constituted guardians of the public schools, our friends the petitioners, make, is to suppose, or rather to charge — for I cannot think that they really believe it — that people send their children to private schools solely for the sake of certain "social" advantages, for which crime these schools have been denounced as "miserable" and "pernicious." Nobody has defined what these alleged "social" advantages are; neither has any one ventured to explain what is meant by threats of "social disability," for making which the wicked citizen is to be fined \$1,000, according to the provisions of Gov. Long's bill.

The petitioners' indignation at the existence of these private schools is, I think, largely fictitious, put forth as a cover for their attack on the parochial schools; for they cannot be so ignorant as not to know that when children are sent to private rather than to public schools, it is for reasons mainly, if not wholly, educational. It is because the instruction in the local public school is, in the judgment of the parent, inferior in some respect to that afforded in some private institution, that he sends his child to the latter; or perhaps he prefers a school where the sexes are kept apart; or, like a portion of the Catholic population, he thinks that religious training should go hand in hand with secular education, and therefore sends his child to a church school. Some of the most celebrated private schools in the country owe their great popularity mainly to the fact that they are professedly church schools; and I venture to think that nowhere but at these hearings would such schools as St.

Paul's and St. Mark's be denounced as "miserable and pernicious."

Our private schools, Mr. Chairman, are a great and indispensable help to the cause of education, partly because they are in many cases better than the public schools of the same locality, and therefore furnish a better education to children of parents who can afford to pay tuition fees; partly, again, by affording to our public schools that competition which is the indispensable prerequisite to progress in educational matters as in everything else; and partly by furnishing a means of educational experiment which would otherwise be wanting. The public school is not the place for trying experiments, nor would the people be satisfied to have the school fund used for such a purpose. The place for experiments, essential as they are to all advancement, is the private school supported by voluntary contributions. The private school, as Colonel Higginson says, is the "experimental station of the public school."

Let us push this matter a little further. If it is wrong, as has been insisted at these hearings, to educate a child anywhere but in a public school; if it is wrong to separate him from the majority of his fellows, and to educate him in a private school; why is it not equally wrong to push his education further than the curriculum of the public schools allows? If an education different from that afforded by the public schools is inadmissible, as tending to create class distinctions, why is not a more extended education equally objectionable? The condemnation of all education that is not open to the public free of cost and controlled by public authority is the logical result of the opinions we have listened to in this committee room, but which I think are seldom heard elsewhere.

We object, therefore, to the proposed legislation on practical educational grounds. The work done by the private schools, in furnishing opportunities for experiment and the stimulus of friendly competition, is of incalculable benefit not only to our public schools, but to the general cause of education. As Colonel Higginson said, almost every improvement in our public schools has been brought about by experimentation in the private schools; we have had a recent and conspicuous proof of that assertion in the history of the kindergarten, and the manual training school



will soon furnish another. The committee will remember that none of the men who have made themselves and Massachusetts famous for their educational work have asked for this legislation. Not a single public school teacher has come up here to support any of these bills, except Mr. Bartlett, the superintendent of the Haverhill Schools. What weight you will attach to Mr. Bartlett's opinion depends on what you think of his remark to Judge Carter: "They, (the French) have no right to keep a school that I do not approve of." This Mr. Bartlett has in some way mixed himself up with the Czar of Russia.

We object, as I have said, on educational grounds, to any law which shall place all private schools under the arbitrary domination of school boards, State or local. The remonstrants — those whom I represent, as well as Mr. Donnelly's clients — object also to the proposed legislation on other and broader grounds than those to which I have alluded. They stand upon the simple American doctrine that the right of the parent to educate his children as, and where, and to what extent he pleases, ought never to be abridged by legislative interference; if he fails to provide them with even an elementary education, the public authorities may and ought to interfere by punishing him and educating the children in spite of him, but beyond that they should never go. One would suppose that such a declaration of the powers and limitations of government would commend itself to the judgment of every one brought up to believe in our American ideas of civil liberty; but within the past few years a new light has been seen, and a new dispensation has been preached, by certain persons who have found that they could make notoriety and profit by stirring up the lingering embers of religious hatred. It had been supposed that the old antagonism between Protestant and Catholic which divided our ancestors was nearly dead; but it seems that there are some among us still with intelligences so narrow and prejudices so unreasonable as to believe that the free institutions of our country are in danger of subjection to the Pope of Rome. Practising upon the ignorance and credulity of such people, the leaders in this anti-Catholic revival were yet aware that they must do something to keep the thing alive beyond the weekly invective from the pulpit. So they came up here last year asking for a

measure which compares with that proposed this year as temperance does with prohibition. The Legislature, however, would take no action. Then came the episodes of "Swinton's History," and the French school at Haverhill, followed up by a vigorous ecclesiastical campaign in Boston last December — perhaps the most disgraceful page in our municipal history. And now the Legislature of 1889 is asked to pass laws much more extreme than anything that has hitherto been suggested. You are asked, Mr. Chairman, to enact a law calculated not merely to impair, but to prohibit altogether the free exercise of the citizen's will in respect to the education of his children. And you are asked to pass this law not merely for the avowed purpose of antagonizing the church of Rome, but with a view to the introduction into this Commonwealth of one of the worst forms of State Socialism. The essential principle of Socialism is the regulation by the coercive power of government of the individual in all the departments and details of life, according to certain fixed and uniform standards. The people, instead of being the creators of the government, are regarded as its creatures; and the government itself is magnified as the "State," into something superior to religion, to the family, to the rights of property, and to all the other institutions of civilized society. As applied to educational matters, the dream of socialism is to substitute the "State" for the parent, and to mould in one fixed system of uniform compulsory education the youth of the community, who, separated from their natural parents, are to become the "children of the State."

The socialistic tendency of the petitioners' demands is not denied by them. Mr. Gracey took the ground that "the State must be protected in its claim to educate the children." Dr. Miner used the following language: "The State has sovereign power over the education of the young." . . . "My solemn conviction is that it will become the imperative duty of the State to take the education of all the young into its own hands." And Mr. Lund, in opening the case for the petitioners, claimed that "every private school should submit to personal examination," that "parents should be prosecuted for sending their children to a private school however good, not approved by the authori-



ties," and put the "right of the State paramount to everything." In reply to a question asked by Mr. Gargan, Mr. Lund said that the "State" was "above the conscience of the individual."

To show the general drift of opinion in that section of the community that is carrying on this agitation, I quote the third resolution of the New England Methodist Conference held last week at Worcester. "In the State, as the centre of Supreme civil authority, inheres the right to centralize public instruction. The State is sovereign." This is one of a series of resolutions denouncing parochial schools and urging the passage of the bill now before this committee; the whole having been reported by a "Committee on Romanism."

I have also noticed with amazement that the report of the Secretary of the State Board of Education for 1888 contains much of the same sort of stuff. Here are some samples:

"A common training of the people of a free State is necessary, that through a common development they may be disposed to think alike concerning the fundamental principles which should form the basis of civil government, and to exercise that common sympathy by which alone it is possible for human individuals to become a people." . . . . "The necessary conditions of unity in thinking and feeling by a people are educational institutions in which the youth may be trained together by common courses of study, pursued in accordance with a common method."

"The fundamental idea of a system of public common schools, supported and controlled by the State, is that of common education, which every citizen of the State must receive as a necessary preparation for citizenship." . . .

"The teachers hold parental relations to their pupils, and the pupils the relation of children." . . . . "The elementary education of all the children of the State should be communicated in public common schools organized and directed by State authority."

I do not believe, Mr. Chairman, that the people of Massachusetts are aware that one of their paid officials is mispending his time and salary in preaching the gospel of Socialism.

The doctrine that the State is the child's true parent is as old

as Sparta where it formed the basis of a profitless civilization ; but in modern times it has nowhere found so much support as among the French. In the reign of Louis XIV of France, who, like Mr. Bartlett of Haverhill, considered himself the State, the principle of compulsory education was invoked for the purpose of coercing people into becoming Catholics. In the darkest days of the Revolution compulsory education in public schools was advocated by the terrible Danton in language that reads like an extract from Mr. Dickinson's Report : " It is time," he said, "to re-establish that great but almost forgotten principle that children belong to the State before they belong to their parents." Time was also snatched from directing the operations of the guillotine to pass a law for compulsory examination, the avowed object of which was to "have the child acquire the knowledge that was necessary to make him a French citizen." If you will read the debates in the French Assembly on these two laws, gentlemen, you will almost fancy yourselves at another hearing in the Green Room, except that the advocates of an educational Reign of Terror will be Danton and Robespierre instead of Dr. Miner and Mr. Bartlett. Ever since the Revolution the struggle between the citizen and the State for the education of the young, has gone on with varying result ; just now, by virtue of the legislation of 1886, a sort of compromise is being tried. The judgment of the people, however, is shown by the unconscious verdict of the language ; the private school has come, both in common speech and in the official language of legislative enactment, to be called the "free school," in distinction to those schools supported by the State, which are called public or national.

Such, then, are the teachings of the Social Revolution upheld by the leaders of this movement, — men who would exchange the Christian family for the centralized paternalism of the "State."

Equally startling with the discovery that such views are entertained by anybody is the assertion confidently made by Dr. Miner, that they represent the settled policy of the State of Massachusetts ; or, to use his own words, that "The policy of the Commonwealth is that the decision of the local school committee shall be absolute and final in regard to all schools."



Nothing could be further from the truth than this. Such *was* the policy of the Commonwealth in colonial and provincial days. Thus, in 1642, the selectmen of the towns were directed to "take account . . . of all parents and masters, and of their children," and to divide the town among them, appointing to every one a certain number of families to have special oversight of. In 1654, it was enacted that no man should teach a school unless he was "sound in the faith," and, in 1711, that no one should keep a school but such as were of "sober mind, . . . and have the allowance and approbation of the selectmen of the town," with a penalty of forty shillings. The first school law, passed after the Revolution (St. 1879, ch. 19, § 9), provided that no one should keep a school unless he had a certificate of capacity from the selectmen or the school committee; also (§ 10), that no alien should keep a school.

It seems hardly necessary to point out that the period covered by this legislation was not distinguished for religious tolerance. In 1629 the only Episcopalians to be found within the charter limits were expelled, and in 1631 all Episcopalians and Romanists were disfranchised. The charter of 1692 granted liberty of conscience to all but Papists; and in 1700 the Jesuits were expelled. During this whole period, of course, an English bishop was as much of a bugaboo to our ancestors as the Pope of Rome is to-day to some of their descendants, and Episcopalians fared little better than Roman Catholics. When, however, the darkness of that period of suspicion and intolerance had been dispelled by the light of civil liberty, this whole system disappeared, and all restraints were removed from private teaching in schools or otherwise. This was accomplished by chapter 143 of the Acts of 1826.

No change was made in our school laws (affecting this question) from 1826 to 1852, when an Act (St. 1852, ch. 240) was passed providing for compulsory education. This law very carefully guarded the right of private education, for while it provided, under a \$20 penalty, that every person having a child in his care between the ages of 8 and 14 should send the same to some public school in the town where he lived for twelve weeks each year, an exception was made in favor of parents whose children were sent to schools not in the town or who were

“otherwise furnished with the means of education for a like period.” The General Statutes of 1860 (ch. 41) condensed the Act of 1852, and provided simply that if the child was otherwise “furnished with the means of education for a like period,” no offense was committed. There can be little room to argue that the omission of any reference to other schools indicated that the authors of the General Statutes intended to alter the law by abolishing private schools; such a proceeding in a mere revision and consolidation of the annual statutes would be unprecedented. Then in 1873 (ch. 279), a clause was inserted: “but if such child has attended a private day school approved by the school committee . . . or has otherwise been furnished with the means of education,” etc., and in 1878 (ch. 181) it was provided that private schools shall be approved only when the teaching is in English, etc., etc., substantially as in Public Statutes, ch. 47, §2.

Now whatever be the literal meaning of our present law,—and that is certainly ambiguous,—one thing is evident, and that is that the policy of the *State* of Massachusetts, (down to within a few years at least,) as distinguished from the policy of our Puritan ancestors, has been to give the freest scope to private education. This policy is also shown in the abandonment of all interest in Harvard College, and in the growing disinclination of the Legislature to give State aid to private institutions. Moreover, no one ever contended that the statutes of 1860 and 1873 were intended to subordinate all private schools to the domination of the State, until within a few years past; nor was any attempt made to inspect private schools until the commencement of the present agitation.

Looking at the course of legislation in the other States and Territories of the Union, you will find, gentlemen, that in only fifteen besides Massachusetts is the principle of compulsory education recognized at all, and that in none of these is there any pretense made of interfering, by inspection or otherwise, with private schools. In most of these States, the private school is put on a footing of absolute equality with the public school; in some, the private school is required to furnish as good instruction, or instruction in the same branches, as the public schools; but in none is there any law interfering with liberty of educa-



tion in its widest sense or any provision for inspection by State or local authorities ; the invariable penalty is a simple fine.

Let me read to you a description of the American school system contained in the great work of Buisson, published in 1887 :—“In the United States private instruction is absolutely free in all its stages. Neither the Federal Government nor the States exercise any control over private schools. This condition of things is the historical outcome of American educational institutions. Individual activity has created everything ; and it is by a process of slow transformation that the primary school, formerly a purely private establishment, has risen to a place among public institutions. Since the organization in the various States of a system of public education, the private schools have lost much of their importance, and their number has considerably diminished, but they are still entirely free from State control. To-day there are few private primary schools except the Catholic ; but in the field of secondary and higher instruction the unrestricted activity of the citizens continues to develop, and almost all secondary and higher grade establishments belong to individuals or corporations.”

The public school, gentlemen, was intended to supplement, not to supplant, the private schools.

Gentlemen, the spirit of our institutions is opposed to the whole theory of paternal government ; to the doctrine that we are the slaves of an imaginary “ State ;” and to the usurpation by that authority of the control of private life. The Declaration of Independence was a declaration in behalf of individual as well as of colonial independence ; according to it “ government derives its just powers ” not from the State, or even from the people, but “ from the consent of the governed,” that is, the individual ; and in the language of its author in after years, “ an elective despotism was not the government we fought for.”

The principle for which the petitioners contend is bad enough and thoroughly un-American ; but the method of enforcing the proposed legislation, the compulsory inspection of private schools, by local school committees, is worse. The statutes give a right of inspection in the case of certain articles of consumption such as milk, oils, butter, etc., offered or kept for sale ; and it has been seriously argued by counsel that this constitutes

a precedent for the inspection of private schools. That is, the crime of keeping a private school is similar to that of offering diseased meat, or watered milk, or imitation butter for public sale! It did not occur to the counsel that the reason for inspection in such cases is the danger that the inferior article may otherwise be sold and the damage done without hope of correction; whereas the keeping of an inferior school is a continuous act and ascertainable by ordinary legal process.

Moreover, the right of inspection would seem to involve the right of entry, at least at all seasonable hours. Do you know, gentlemen, in what cases and in what cases only, the law allows an entry on private property? Apart from the common law relating to breaches of the peace and felonies, a right of entry upon a warrant and sometimes without one, is given in cases of dog and cock fighting, gambling, embezzlement, and for the purpose of discovering counterfeit coin, calves killed under four weeks old, drugs for abortion, and obscene and indecent literature. This is about all; and yet it is solemnly proposed to subject the teacher of a private school to an inspection as inquisitorial and arbitrary as if he or she had been suspected of keeping indecent literature instead of unapproved schoolbooks!

The machinery of inspection is wholly unnecessary. The obligation to educate one's children can be enforced under existing laws without resorting to the novel and offensive remedy of entry and inspection. The truant officers are charged by P. S., ch. 47, § 3 with the duty of vigilantly inquiring into all cases of neglect; P. S., ch. 41, § 13 provides for returns from all private schools to the State Board of Education; and finally, in a prosecution under P. S., ch. 47, § 1 (the law under discussion), the burden of proving that the private school in question was a proper one and the instruction adequate, is on the defendant, that is the parent. All that the prosecuting officer has to show is that the child did not attend a public school; whatever is incumbent in the way of private education must be shown by the parent; he must prove affirmatively either that the child attended an approved private school, or some school which in fact furnished the "means of education."

Why we should be acute to invent novel and unpopular methods of preventing the commission of the new and purely



statutory crime of not educating one's children, when the much greater crime of not supporting them, to say nothing of hundreds of other much more serious offences, are provided with no such means of detection, is, I submit, incomprehensible. But Dr. Miner thinks it is all right, for, according to him, the school committee is the "eye of the State." Well, you have all heard, gentlemen, of the "Eye" of Mormon; that became a symbol of tyrannical inspection, and I think that there is more scope for Dr. Miner and his inquisitive "eye" in Salt Lake City than here in Massachusetts. I have run across another "eye" of inspection lately; as I come up to these hearings through Court Street my attention is always drawn to the eye on the advertising sign of the Pinkerton detectives. These comparisons are quite in point, gentlemen; for what Dr. Miner and his friends would like, is to turn the government into a great detective agency, organized for the purpose of prying into the affairs of private life, with himself for superintendent, and for operatives the local school committees.

Seriously, gentlemen, does it not strike you as preposterous that a local school committee, changing from year to year, elected oftentimes on political or religious grounds, and having, as a rule, no special qualifications for the determination of educational or judicial questions, should be elevated into a tribunal final and beyond appeal to the prejudice of the established courts of law?

A further objection to all the proposed measures is that if enacted into law they cannot be enforced. A large portion of our people, nearly one-half, will regard these laws as a blow at their religion and an insult to themselves; and a great many of us who are not Catholics will be equally reluctant to surrender the right of educating our children to the local school committee at the dictation of the General Court. I take it to be an established principle of government that, in a democracy like ours, no law can be enforced against the determined and conscience-founded opposition of any considerable number of the able-bodied male inhabitants. I want to see the minion of the "State," — which, gentlemen, under our form of Government is only the majority or the representatives of that majority, — I want to see the minion of the State, who shall attempt to take my child out of a school that I approve of, though the local school committee

may condemn it ; I want to see the State official or the school committeeman, who shall dare to thrust his meddling person into a school that I am interested in, and attempt to control the "means of education" that my child is there receiving. We are willing that the statute law should reinforce the natural obligation to educate our children, and we shall always be ready to prove to the satisfaction of the established courts of law that we have not violated those obligations ; but if you assume, sir, that there is any considerable body of our citizens, Protestant or Catholic, who desire, or countenance, or will submit to the tyrannical inspection and control of private schools by local school boards, you will make, sir, a vast mistake, a mistake that may be fatal to the public schools themselves. The passage of these bills can only result in stirring up religious controversy, in violations of the law, and in injury to our public schools.

Would it not also be a very great political mistake for the dominant party at the State House to become responsible for any such legislation? You heard what Mr. Dubuque said : that the bill would drive every Catholic in Massachusetts into the Democratic party. Such a statement coming from the Republican representative from Fall River, supported as it was by similar statements from other witnesses, should make our Republican friends pause, it seems to me, before they commit their party to the policy of Dr. Miner and the Committee of One Hundred. Are you prepared, Mr. Chairman, for the sake of appeasing a few noisy and excited partisans who in no sense represent the great mass of our Protestant or Republican fellow-citizens, to pass a law that will forever alienate those of your party who are of different race and creed? A coalition in 1819 between Democrats and Episcopalians overthrew not only the Orthodox establishment in Connecticut but the Federalist party as well.

It is said that these proposed laws are unconstitutional. This position I believe to be well founded ; but I shall not argue the question at length, as the time allowed is too short. I will simply ask you, gentlemen, to read our Bill of Rights, particularly the 1st, 14th, 15th, and 29th articles, and the 11th Amendment, and then to consider whether it is within your constitutional functions to pass a law that will violate the



right of the citizen to enjoy and defend his life and liberty (Art. 1); that will violate his right to be "secure from all unreasonable searches" (Art. 14); that will take away from him the right of trial by jury (Art. 15), and destroy his right to be tried by judges "free, impartial, and independent"; and that will violate the injunction that "no subordination of any one sect or denomination to another shall ever be established by law" (11th Amendment).

I will also ask you to reflect that the end of government, according to the Preamble to our Bill of Rights, is to furnish the individuals who compose the body politic "with the power of enjoying, in safety and tranquillity, their natural rights and the blessings of life"; and that, in the words of the Supreme Court of the United States, "a government which recognizes no such rights, which holds the lives, liberties, and property of its citizens in the absolute disposition and unlimited control of even the most democratic depository of power, is but a despotism." Are you prepared, gentlemen, to commit the Commonwealth of Massachusetts to the un-American doctrine that the education of my child belongs not to me, but to my fellow-citizens, or to the representatives of the majority of them in General Court assembled?

Let us now consider some of the special reasons for interfering with private schools advanced by our opponents.

It is said in the first place that inspection by State or local authorities is the only practical way of ascertaining whether or not a private school is furnishing to the children who attend it that minimum of education which the State demands. I have already pointed out that this practical difficulty is no greater than that attending the detection of other and far more serious crimes; and the fact that in a prosecution under our present statute the burden is on the parent to show that his child is receiving the "means of education" shows the utter hollowness of this pretence. The local authorities have only to summon the parent patronizing a private school into Court, and the parent must then show that the school did in fact furnish the "means of education." That is, under the present law the school committee may demand, and the parent is entitled to, a *judicial inspection* of the school; which is certainly

going as far as the State ought to in the control of private education.

Then we have heard a great deal about the necessity of a uniform "American" education, which "every citizen of the State must receive as a necessary preparation for citizenship." We deny this necessity, and repudiate the socialistic theories on which it is grounded. The law of nature is diversity, not conformity, and this law applies with equal force to human institutions, to industry, to education, and to government itself; individuality is the essential condition of all human happiness and progress. What is the "American" way of teaching reading, writing, and arithmetic? What, for that matter, is the "American" way of teaching anything? One would suppose that if there was any one capable of answering these questions, it would be the Secretary of the State Board of Education, the author of the sentiment just quoted; but on page 171 of his Report for 1888, we find this disheartening but truthful statement :

"While it seems to be the concurrent opinion of a majority of those best able to judge, that a right training of the faculties is the ultimate end to be produced by a compulsory education of the children, it is quite evident to those familiar with the educational affairs of modern times that there is no common agreement concerning what right training is, or what are the means and causes upon which it depends."

Then, as to such studies as history and hygiene, is it not quite possible for individual teachers and particular text books to inculcate, along with instruction in these branches, certain social, political, or religious doctrines which may be offensive to certain parents? And in such cases is the "State" to prevent the parent from sending his child to some other school which is maintained by charity or tuition fees for the purpose of teaching these branches in accordance with what the parent believes to be the truth? According as this question is answered by the Legislature, we shall be living in a Democracy of the American type, or in that worst form of tyranny, which Jefferson foresaw and called an "elective despotism."

Of course the advocates of these measures invoke the doctrine of Protection. Dr. Miner said that he wanted a law that



would "protect the catholic citizen from the tyranny of the priesthood"; and Governor Long has solemnly announced that it is the function of the State to protect the souls of little children! To such base uses has that in itself harmless word, "protection," fallen. Gentlemen, I will not here rehearse all the crimes against honest industry and labor which have been perpetrated for Protection; but I will ask you to search the pages of history and find, if you can, a single crime against popular liberties or freedom of conscience that has not been committed for the alleged purpose of protecting some one. It was to protect the colonies that Great Britain taxed them; it was to protect the young that our Puritan forefathers would permit no Anglican or Catholic instruction; it was to protect the Albigenses that they were swept from off the earth; it was to protect the soul of the heretic, *pro salute animæ*, that they took away his life, in the days of Alva and Queen Mary. The statute of Elizabeth making it a capital offence to become a Romish priest was commended by the prosecuting attorney, who in 1681, secured the conviction of George Busby for taking orders from Rome, as a law "in favor of the lay papists themselves"; and the Catholic priest was hanged, drawn, and quartered as an "act of charity to the common papists." Gentlemen, this country of ours was founded, not for protection, but for freedom.

Genuine freedom, true liberty of conscience, must include the right, if the citizen desires it, to submit himself, in matters of faith and morals, to the guidance and control of ecclesiastical superiors; and whether he chooses to subject himself in such matters to the mild and distant rule of Rome, or to the scolding terrorism of the Rev. Dr. Miner, is a question for the citizen to settle for himself, without assistance from the General Court.

The disloyalty of the Catholics, or rather their possible disloyalty in case the Pope should command that the civil laws be disobeyed, has been the burden of most of the testimony and argument at these hearings. Now I take it to be true, that a conflict between Church and State is quite possible; it will be certain to arise whenever the State attempts to interfere with liberty of conscience, whether that liberty takes the form of the

Protestant claim of private judgment, or the Catholic and Episcopalian form of submission to the Church. I will go further, and point out not a possible, but an actually existing conflict between Church and State in Massachusetts. Neither Catholics nor Episcopalians recognize the justice or morality of our divorce laws ; these laws are in both churches the constant theme of ecclesiastical censure, and the subject of "threats of ecclesiastical disability." Now, sir, why does not some one propose a law which shall prevent the authorities of the Episcopalian or Catholic churches from visiting with "ecclesiastical punishments" their priests or parishioners, who set the law of the State above the law of the Church in the matter of divorce? You doubtless remember the indignation manifested by a portion of the press when recently an Episcopalian clergyman in Philadelphia, who wanted to marry again during the life-time of his divorced wife, was forced to resign his pastorate and his priesthood. It was an instance of what Dr. Miner has characterized as the doctrine of "obey or get out." Now, sir, I am not here to defend the doctrinal teachings of any particular church, though in this matter of divorces my own sympathies are entirely with those who believe that the civil law is un-Christian, immoral, and impolitic ; but I am here, and glad to be here, to defend the right of the citizen to belong to a church that does not hesitate to antagonize the civil laws when these are bad, and to educate his children, if he pleases, in conformity with the teachings of his church, though these conflict with the doctrines of the General Court.

Then, sir, as to the possibility of a conflict between Church and State in purely civil matters : one would suppose from the time and argument devoted to this subject at these hearings, that Mr. Bartlett's fears had been fulfilled and a Papal edict issued for the annexation of New England to the Province of Quebec. We have all heard this sort of thing before ; Mr. Gladstone took it up some fifteen years ago and proved his case with all the eloquence and logic that we can hope to hear from Governor Long. The church claims to be supreme in matters of faith and morals ; the church claims the right to determine the province of faith and morals ; the Pope is the head of the church and infallible in matters of faith and morals ; hence the

time may come when the State and the Pope may disagree ; and the Catholic citizen must either cease to be a good citizen or cease to be a good Catholic. The argument is syllogistic and the conclusion not to be avoided. But what of it? Can you not, by applying the same reasoning to the Protestant claim of private judgment, reach a similar result, except that the individual is his own infallible authority? The whole argument, gentlemen, is nothing but an illustration of the fallacy of pushing political and moral principles to a logical but impossible extreme. There is, in fact, no danger in this stage of the world's progress of any attempt on the part of the Pope to control our civil government ; and to doubt the result of any such attempt if made is to insult the patriotism of our Catholic citizens.

This whole agitation, gentlemen, is, in fact, an attack on the patriotism and Americanism of all who belong to any church which pretends to teach, in the words of Dr. Miner, "not by force of precept and advice, but by authority," and who refuse to substitute the "State" for what they believe to be the church of Christ.

The first words of the first witness, at the opening hearing, were denunciation of a Catholic priest for daring to criticise the management of a particular public school in Cambridge ; and the last act of the last witness, as the hearing closed yesterday, was to flourish in his hands, as a specimen of ecclesiastical hostility to our institutions, the catechism of the Protestant Episcopal Church. I have no doubt that this was an accident, for it is not the policy of the leaders of this movement to attack the Episcopalians ; it is much easier to keep up the enthusiasm of their followers by pitching into the Pope. But the incident was significant. Mr. Leyden thought that this particular book was a Roman Catholic catechism, because, I suppose, it teaches that the sacraments are necessary to salvation, that we owe submission to our spiritual pastors and masters, and belief in the Holy Catholic Church. This is all as it should be ; for the Miners and Leydens of to-day are the legitimate successors to those Massachusetts clergymen of ninety years ago, who denounced every Episcopalian as a "tory," every Catholic as a "Papist," and Thomas Jefferson as an "atheist," and through



whose efforts the adoption by Massachusetts of the American principle of individual freedom in educational matters was delayed till 1826. They preach the same doctrines of intolerance and controversial hate that, in the 17th century, led to disfranchisement and exile, but which to-day seem to point to the deification of the "State." We, on the other hand, Mr. Chairman, insist that the spirit of our American institutions is the spirit of individual liberty ; that that it is which has made this country great ; and that a rigid adherence to that idea is the only thing that will save us from the death grip of socialistic principles.

We have come here, sir, as Protestants, to protest against the passage of any law that shall subject the citizen to the domination of the State in the more intimate affairs of private life ; to protest against the principle that the studies and methods of education may be prescribed by law and enforced by the inquisitional persecution of a school board.

Do not seek, gentlemen, to drive people into the public schools by the irritating lash of legislation ; if they do not choose to go you cannot make them. If it is the deliberate intention of any portion of the people to take their children out of the public schools, we cannot help it, however much we may regret it. Do not, for the sake of preserving our public schools, recommend a law that, under the guise of educational provisions, intervenes between the citizen and his church, between the parent and his child. Do not commit the Commonwealth to an educational policy wholly foreign to the spirit of our institutions, and for which no precedent can be found in any of our sister States. Do not recommend any law that will interfere with the right of the citizen to live and die and educate his children in the full, untrammelled, unrestricted, uninspected exercise of Christian Liberty. Above all things, gentlemen, do not assume that these petitioners represent any considerable portion of the Protestants of Massachusetts ; and do not be deceived by them into passing a law that will not effect the subordination of the Citizen to the State in educational matters, but that may end in the destruction of our public schools.



We ask, Mr. Chairman, that if the Supreme Court, which has been requested to construe our present school laws, holds that Ch. 47, §1 of the Public Statutes permits the existence of private uninspected schools, then that you give these petitioners leave to withdraw. If, on the other hand, the decision is that no private school can be maintained unless inspected and approved by the local school committee, then we ask you to repeal the law forthwith. In either event, it might be well to pass such a law as Mr. Ladd of Chauncy Hall School suggested last year, authorizing the school committee to inspect and in its discretion to approve any private school that requests an examination.







LIBRARY OF CONGRESS



0 022 014 092 1